

Internal Revenue Service

District  
Director

Department of the Treasury

230 South Dearborn Street  
Chicago, Illinois 60604

[REDACTED]

**CERTIFIED**

[REDACTED]

Employer Identification Number:

[REDACTED]

Person to Contact:

[REDACTED]

Telephone Number:

[REDACTED]

Refer Reply to:

[REDACTED]

Date: MAR 29 1994

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purpose as stated in your organization document is "to advance and promote safe alcohol free, and drug free operation of motor vehicles through education and informing young vehicle operators of the corresponding dangers."

The activities carried on by your organization are as follows:

Display the drag racing vehicle of the president prior to race time, to display a customized street machine and other types of specialized motor vehicles at race tracks and auto shows, and to secure sponsorship of your program from within the automotive sector.

Your current financial support is received from sponsors within the private business sector and individual contributors. You have received product sponsorship from [REDACTED] in exchange for displaying of decals, on your drag racing car and the drivers helmet.

Your current financial expenses were incurred by [REDACTED] as he invested \$[REDACTED] of his personal funds in the [REDACTED] which is a racing vehicle that he owns.

[REDACTED]

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Your proposed sources of income will also be derived from sponsors within the private business sector and from individual contributors. You anticipate receiving a total of \$[REDACTED] in income.

Your proposed expenses are related to automobile exhibits, drag car racing and automobile shows which includes both the expense of getting to the automobile exhibits, the drag car races, the automobile shows and the expense of the entry fees to participate in these events.

You also anticipate incurring maintenance and renovation expenses for the current equipment along with the purchase of an early model [REDACTED] Pickup truck.

Your organization is not a membership corporation.

Your activities as stated in your application for recognition of exempt status under Section 501(c)(3) of the Internal Revenue Code are to garner the attention of young people at drag races and car shows in an attempt to tell them of the dangers and hazards of operating any type of motor vehicle under the influence of drugs, primarily alcohol. However, at the time of submission of your application, you had not conducted any presentations. When asked by correspondence to provide a detailed narrative of your activities, you responded that you will present videos, printed literature, discussions, and informative quizzes at local junior high schools. These presentations will be made by the founder and president [REDACTED] and his children. You will also use the same basic presentations at automobile shows and exhibits.

Your [REDACTED] activity will be the display of the drag racing vehicles in the pit by your president, who is a race car enthusiast, at drag races. This activity permits spectators to walk around and view the car at which time they could ask questions about your organization and receive information about drinking and driving. [REDACTED] feels that the best way to get his message across to young people is to speak to them at these events when they show an interest in the racing vehicle.

When asked by correspondence who owns the automobile that is used in the drag races. You responded that [REDACTED] owns the drag racing vehicles which he drives in the drag races.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1 of the Income Tax Regulations relates to the definition of the organization and operation of organizations described in Section 501(c)(3). It is quoted, in part, as follows:

"(a) Organizational and operational tests. (1) In order to be exempt as an organization described in Section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt. (2) The term "exempt purpose or purposes", as used in this section, means any purpose or purposes specified in Section 501(c)(3)...."

"(c) Operational test. (1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

In construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. U.S., 326 U.S. 279 (1945) the Supreme Court of the United States said, "This plainly means that the presence of a single non-educational purpose, if substantial in nature will destroy the exemption regardless of the number or importance of truly educational purposes". This statement applies equally to any category of charitable purposes under Section 501(c)(3) of the Code.

Although your organization has stated that drag racing is the secondary activity of the organization, the evidence submitted suggests that it is the primary activity. Your current financial expenses incurred by your president and founder are related to the maintenance of his drag racing vehicles. Your proposed budget indicates that approximately █% of your expenses are related to the maintenance and renovation of the same drag racing vehicles. At the time of submission of your application and at the time of your responses to our requested information, your organization had not conducted any presentations nor had you developed any educational literature advising young people of the dangers and hazards of operating any type of motor vehicle. Therefore, it appears as though you are not operating exclusively for charitable and educational purposes. In fact the evidence shows that you are operating for the private benefit of the President and Founder, a drag race enthusiast, which precludes exemption under any Section of the Code.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

District Director

Enclosures:  
Publication 892  
Form 6018